
From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Thursday, February 12, 2009 14:07
To: Ehrich, Delmar R.
Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com; rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; George, Robert; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.; Moll, Ingrid; Baker, Fred; Mark_Quayle@cargill.com; Jones, Bruce; Jaromin, Michelle; Kelly_Burch@oag.state.ok.us
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Delmar -

Defendants' demand for five categories of information for every respondent *and* potential respondent for the: 1) recreational study, 2) the telephone survey, 3) focus groups, 4) pre-tests, 5) one-on-one interviews, 6) pilot tests, and 7) the final survey is overly burdensome on the State. This blanket request asks the State to respond to 70 separate inquiries about the materials (5 requests x 2 groups (respondent/ potential respondent) x 7 different types of events = 70).

If the Defendants want to organize the materials produced by the State into these 70 subcategories of their choosing, they are free to do so, but the State certainly has no duty to perform this exercise on behalf of the Defendants. If you want to pose specific questions about particular materials, we are happy to review those specific questions and do our best to tell you where they are located in the production if, after reasonable effort, you are unable to locate them yourself, or to let you know if the information you are seeking does not exist if that is the case. However, Defendants' blanket request for 70 different categories of information is burdensome. The materials were produced as closely as possible to the file structures in which they were maintained, and any material that the Stratus authors had in their files that is responsive to your 70 requests has been produced to Defendants.

In regard to the spreadsheet of 189 names of NON respondents to the survey that was provided to some authors of the report by Westat (which you refer to as "the attachment to Bishop CORR0000125"), this document was provided to Defendants because it was in the materials maintained by the authors of the report for this project. *To reiterate, everything the authors had in their files for this project has to the best of our knowledge been provided to Defendants.* It is my understanding that apx. 15 of the nonrespondents on this list later became respondents. Defendants will have the opportunity to ask the authors of the report further questions about this issue at their depositions if they so desire.

In regard to your request for transcripts, videotapes, and audiotapes, this is a repeated request from your Jan. 21, 2009 email. As I stated in my response to you on Jan. 23, 2009, to our knowledge no such materials were created. If this answer is still not clear, or there is something that leads you to believe otherwise despite my response, please provide additional explanation and detail about what you are requesting.

Claire Xidis | Attorney at Law | Motley Rice LLC
28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | cxidis@motleyrice.com
o. 843.216.9251 | c. 843.834.4747 | f. 843.216.9450

From: Ehrich, Delmar R. [mailto:DEhrich@faegre.com]
Sent: Tuesday, February 10, 2009 3:38 PM
To: Xidis, Claire
Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com; rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; George, Robert; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.; Moll, Ingrid; Baker, Fred; Mark_Quayle@cargill.com; Jones, Bruce; Jaromin, Michelle
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Exhibit 17

Dear Ms. Xidis,

Thank you for your responses. I write again on behalf of the defendants in this action to demand that the plaintiff immediately produce the following materials reflecting or relating to:

- | The number of times that each respondent or potential respondent was contacted (see, e.g., the "# of Contacts" column in the attachment to Plaintiff's file named "BishopCORR0000125," a spreadsheet of 189 names for the conversion refusal calls that four of Plaintiff's testifying experts received. The spreadsheet has name, address, phone, and other information);
- | The comments made by each respondent or potential respondent when refusing to participate in any damages study conducted by Plaintiff (see, e.g., the "EROC Comment" column in the attachment to BishopCORR0000125);
- | The date that each respondent or potential respondent was last contacted (see, e.g., the "Last Contact" column in the attachment to BishopCORR0000125);
- | The name of the interviewer for each respondent or potential respondent (see, e.g., the "Interviewer" column in the attachment to BishopCORR0000125);
- | The "record of actions" identified in the damages report entitled Natural Resource Damages Associated with Aesthetic and Ecosystem Injuries to Oklahoma's Illinois River System and Tenkiller Lake (see, e.g., Section 4.9.3, pg. 4-38).

I have used the terms "Respondent" and "potential respondent" to mean any individual contacted during plaintiff's damage studies to obtain information related to recreational use in the Illinois River Watershed or to alleged natural resource damages. To be clear, I have used the term "damages studies" to include, Plaintiff's 2006 recreational use intercept study, Plaintiff's 2006 telephone survey, and any aspect of the contingent valuation study (e.g., pre-tests, focus groups, one-on-one interviews, pilot tests, final survey). From our review of the considered materials that have been previously produced by Plaintiff as to the CV reports, the Plaintiff's decision to employ a contingent valuation method was influenced by the results of the intercept study and the telephone survey. Defendants are entitled to the identity of those responding to the intercept study and the telephone survey in order to assess what plaintiff clearly viewed as unsatisfactory answers. Moreover, it appears that at least some of the authors of the CV study were provided the contact information of respondents to the CV survey and, indeed, made phone calls to those who had refused to submit to the survey. In short, the plaintiff's contention that the identity of the survey respondents was not "considered" by the plaintiff's experts is simply false.

Finally, all transcripts, videotapes, and audiotapes related to the interview of or correspondence with any respondent or potential respondent for any of the damages studies must be produced.

All of the information identified above should have been provided along with the Stratus report on January 5. Plaintiff's failure to provide this information immediately will further prejudice the defendants in preparing rebuttal damage experts within the deadlines provided in the current case management order. As Defendants continue to evaluate the provided materials, we may have further production demands.

I would appreciate hearing from you at your earliest opportunity.

Del Ehrich

From: Xidis, Claire [mailto:cxidis@motleyrice.com]

Sent: Tuesday, February 03, 2009 15:36

To: Ehrich, Delmar R.

Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com; rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; George, Robert; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.; Moll, Ingrid; Baker, Fred; Mark_Quayle@cargill.com; Jones, Bruce; Jaromin, Michelle

Subject: RE: Stratus Damages Reports/Missing Considered Materials

Delmar -

Attached hereto is a new copy of the document you requested below in your 4th bullet point.

Please let me know if you have any trouble opening this document.

Claire Xidis | Attorney at Law | Motley Rice LLC
28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | cxidis@motleyrice.com
o. 843.216.9251 | c. 843.834.4747 | f. 843.216.9450

From: Xidis, Claire
Sent: Thursday, January 29, 2009 1:44 PM
To: Ehrich, Delmar R.
Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com; rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; George, Robert; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.; Moll, Ingrid; Baker, Fred; Mark_Quayle@cargill.com; Jones, Bruce; Jaromin, Michelle
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Delmar - Below is a response to each of your Jan. 27, 2008 requests.

Bullet point 1 - Your request for a "listing of all sample housing units" is simply a repeated request for the same information requested in your email dated Jan. 21, 2009 regarding information identifying the survey participants, and the same response applies here. I met and conferred with Robert George regarding this yesterday, and unfortunately we were not able to reach an agreement on this issue. He has informed me that you all intend to file a motion about this.

Bullet point 2 - "[T]he dataset used for the statistical analyses presented in the report" was produced to Defendants on Jan. 5, 2009. It was produced on a disc that was hand delivered to Leslie Southerland that day, rather than on the hard drive that was shipped to her and also delivered that day. It is on the disc in the zip file "Additional Materials for Stratus Shared Database" and the file name within that zip file is "Wdata12192008.dta"

Bullet point 3 - The "do files" were produced to Defendants on Jan. 5, 2009. These are also located on the disc in the same zip file "Additional Materials for Stratus Shared Database" described above. There are three "do files" in this zip file, each of which ends with ".do" - specifically, they are named:

Chapter6Tables.do.do
DataChecking.do.do
Final_logit_and_more.do.do

Bullet point 4 - We cannot get our copy of this document to open, and Stratus is unable to open their copy as well. This is not a document created by Stratus but a document they pulled off the web when doing research, and they are trying to locate another copy of it and when they do I will send it to you.

Bullet point 5 - Fully accessible, duplicative versions of password protected files were simultaneously produced to defendants on January 5, in addition to these password protected copies.

Nevertheless, if you want to check this for yourself, the passwords which will unlock the password-protected copies of the files are as follows:

OKWaterTextResponse9.zip	OKWS#9ms
OKWaterPilot2Deliverable1.zip	OKWS\$P2
OKWaterMSDeliverable1.zip	OKWS#1ms
OKWaterMSDeliverable10.zip	OKWS#10ms
OKWaterDeliverablePF.zip	OKWS#pf
OKWaterDeliverable.zip	OKWS#Fms
OKWaterFinal2Deliverable.zip	OKWS#Fms
OKWaterMSDeliverable2.zip	OKWS#2ms
OKWaterMSDeliverable3.zip	OKWS#3ms
OKWaterMSDeliverable4.zip	OKWS#4ms
OKWaterMSDeliverable5.zip	OKWS#5ms
OKWaterMSDeliverable6.zip	OKWS#6ms
OKWaterMSDeliverable7.zip	OKWS#7ms

OKWaterMSDeliverable8.zip OKWS#8ms
OKWaterMSDeliverable9.zip OKWS#9ms
OKWaterPilot1Deliverable1.zip OK#9713
OKWaterPilot1Deliverable2.zip OK#9713
OKWaterPilot1Deliverable3.zip OK#9713
Pilot1Deliverable3Mod1.zip OK#9713
OKWaterPilot2Deliverable2.zip OKWS\$P2

Please let me know if you have any additional questions.

From: Ehrich, Delmar R. [mailto:DEhrich@faegre.com]
Sent: Tue 1/27/2009 5:23 PM
To: Xidis, Claire
Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com; rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; George, Robert; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.; Moll, Ingrid; Baker, Fred; Mark_Quayle@cargill.com; Jones, Bruce
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Dear Ms. Xidis,

I write on behalf of the defendants in this action to demand that the plaintiff immediately produce the following materials in addition to those that I identified in my January 21 email:

- | listing of all sample housing units;
- | dataset used for the statistical analyses presented in the report (i.e., the analysis dataset);
- | the "do file" that corresponds to every table and every model in the report;
- | an uncorrupted version of the file stratus0027722_finaloutdoorrecreationreportec.pdf; and
- | passwords for the password protected Westat files.

This information should have been provided along with the Stratus report on January 5. The plaintiff's failure to provide this information immediately will further prejudice the defendants in preparing rebuttal damage experts within the deadlines provided in the current case management order. As Defendants continue to evaluate the provided materials, we may have further production demands.

As to your January 23 mail refusing to produce information related to the identity of survey respondents, Robert George has articulated the position of the defendants as to why that refusal is unwarranted.

I would appreciate hearing from you at your earliest opportunity.

Del Ehrich

Confidential & Privileged

Unless otherwise indicated or obvious from its nature, the information contained in this communication is attorney-client privileged and confidential information/work product. This communication is intended for the use of the individual or entity named above. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies--electronic, paper or otherwise--which you may have of this communication.

Confidential & Privileged

Unless otherwise indicated or obvious from its nature, the information contained in this communication is attorney-client privileged and confidential information/work product. This communication is intended for the use of the individual or entity named above. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies--electronic, paper or otherwise--which you may have of this communication.